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10/575,570	04/25/2008	Jord Williams Poster	GCV-001	1351
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K&L Gates LLP STATE STREET FINANCIAL CENTER One Lincoln Street BOSTON, MA 02111-2950			STRODER, CARRIE A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,570	Applicant(s) POSTER, JORD WILLIAMS
	Examiner CARRIE A. STRODER	Art Unit 3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 September 2010.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3,9-16,18-22,26,30-36 and 54-56 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3,9-16,18-22,26,30-36 and 54-56 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date: _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

1. This is in response to the applicant's communication filed on 28 September 2010, wherein:

Claims 1, 3, 9-16, 18-22, 26, 30-36, and 54-56 are currently pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1, 3, 9-16, 18-22, 26, 30-36, and 54-56 are rejected under 35 U.S.C. 112, second paragraph,** as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 20 state that each parameter is set by one or at least one of "a donor of the item of merchandise, a supplier of the item of merchandise, and a vendor of the item of merchandise," which is confusing. By stating that it is "one" or "at least one," the claim seems to imply that it should read "or" rather than "and." "And" implies that there is more than one of the options being chosen.

Claims 21-22 refer to "the information" which lacks antecedent basis.

Claim 54 states, "wherein the allocation as a percentage of the donation amount for one or more charitable organizations on the list is determined, at least in part, by a donor, a vendor, a supplier, or a charitable organization," which is confusing, as claim 54 is dependent on claim 1, which has already stated the allocation as a percentage of the donation amount is determined by one of a donor, a vendor, or a supplier.

Claim 54 states, "wherein the allocation as a percentage of the donation amount for one or more charitable organizations on the list is determined, at least in part, by the purchaser," which is confusing, as claim 55 is dependent on claim 1, which has already stated the allocation as a percentage of the donation amount is determined by one of a donor, a vendor, or a supplier.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 3, 9, 12, 14-15, 18-19, and 54-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Nair (US 20020099654).**

Referring to claim 1:

Nair discloses

associating, in a database, a plurality of parameters with each item of merchandise for sale, the parameters specific to each item of merchandise, each parameter being set by one of a donor of the item of merchandise, a supplier of the item of merchandise, and a vendor of the item of merchandise (paragraphs 4-5 and 38-39; "Web page 500 also includes link 530 for causing new customer information to be submitted to the server computer 22 through the internet 20 by the user processor 12." and "Field 519 may be used to enter a charity of the user's choice and to specify a percentage (or dollar amount) for donations to that charity." and where the server which stores the submitted information is interpreted as a database and where the operator of the website is interpreted as a *vendor of the item of merchandise* and where the purchaser may also be a supplier of an item, as evidenced in paragraphs 4-5);

the parameters comprising: a list of charitable organizations eligible for the receipt of a donation, a purchase price for each item of merchandise, a donation amount for each

item of merchandise, a total price for each item of merchandise, and an allocation as a percentage of the donation amount, to one or more charitable organizations on the list, the total price comprising the sum of the purchase price and the donation amount (paragraphs 39 and 54 and Figs. 6, 12, and 14A; "Charity Donation Information" and fields 1316a-1318a show a list of charitable organizations eligible for the receipt of a donation, "Donation" column in Fig. 12 shows the donation amount for each item of merchandise, "Total Amount" in Fig. 12 is the total price for each item of merchandise, comprising the sum of the purchase price and the donation amount, and fields 1308a-1310a show an allocation as a percentage of the donation amount);

offering, by a computer, an item of merchandise in response to the values of the plurality of parameters associated with the item of merchandise (paragraphs 4-5; "...where the item is being offered for sale...");

communicating, by the computer, information about the item of merchandise to a purchaser, the information comprising the purchase price, the donation amount, the identity of the one or more charitable organizations on the list, and the donation amount to be allocated to the one or more charitable organizations upon the purchase of the item of merchandise and

in response to the plurality of parameters (paragraph 47 and Fig. 12; "...order review web page..."); and receiving from the purchaser an offer to purchase the item of merchandise for the total purchase price including the donation amount (paragraph 47; "...begin checkout...").

Referring to claim 3:

Nair discloses wherein said purchaser identifies the charitable organization to which said donation amount is to be allocated (paragraph 39; "Field 519 may be used to enter a charity of the user's choice and to specify a percentage (or dollar amount) for donations to that charity.").

Referring to claim 9:

Nair discloses wherein the purchase price includes one or more fees, the one or more fees comprising a delivery fee, an administrative fee, a ticket source fee, and a processing fee (paragraph 47; "...delivery charge...").

Referring to claim 12:

Nair discloses qualifying said one or more charitable organizations prior to communicating the identities of the one or more charitable organizations to the purchaser (paragraphs 45-46; "A representative may contact the charitable organization after the information entered in web page 1000 is processed.").

Referring to claim 14:

Nair discloses receiving, from the purchaser, payment for the item of merchandise (paragraph 52 and Figs. 6 and 13B; "Clicking on link 1206b may confirm the check out...").

Referring to claim 15:

Nair discloses sending the donation amount to said identified one or more charitable organizations (paragraph 54; "...the amounts paid to each charity in fields 1325a-1327a...").

Referring to claim 16:

Nair discloses wherein said purchaser further identifies a percentage allocation said purchaser's preferred allocation of the donation amount to each of said identified one or more charitable organizations (paragraph 54; "Money may be donated to the various charities on the percentage basis defined by the user...").

Referring to claim 18:

Nair discloses transmitting a confirmation to the purchaser (paragraph 52; "Clicking on link 1206b may confirm the check out and a message may be displayed saying "you are checked out" as shown in field 1208b.").

Referring to claim 19:

Nair discloses wherein the confirmation comprises one or more of the price, a description of the item of merchandise, the

donation amount, a customizable acknowledgment from said one or more charitable organizations, and the identified charitable organizations (paragraph 52 and Fig. 13B; "The web page 1200b includes text 1202b which shows various order information and links 1204b, 1206b, and 1208b.").

Referring to claim 54:

Nair discloses wherein the allocation as a percentage of the donation amount for one or more charitable organizations on the list is determined, at least in part, by a donor, a vendor, a supplier, or a charitable organization (paragraphs 4-5 and 38-39; "Web page 500 also includes link 530 for causing new customer information to be submitted to the server computer 22 through the internet 20 by the user processor 12." and "Field 519 may be used to enter a charity of the user's choice and to specify a percentage (or dollar amount) for donations to that charity." and the operator of the website is interpreted as a vendor of the item of merchandise and where the purchaser may also be a supplier of an item, as evidenced in paragraphs 4-5).

Referring to claim 55:

Nair discloses wherein the allocation as a percentage of the donation amount for one or more charitable organizations on the list is determined, at least in part, by the purchaser (paragraphs 38-39; "Web page 500 also includes link 530 for

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causing new customer information to be submitted to the server computer 22 through the internet 20 by the user processor 12." and "Field 519 may be used to enter a charity of the user's choice and to specify a percentage (or dollar amount) for donations to that charity.").

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 10-11, 20-22, 26, and 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nair (US 20020099654), in view of Baker et al. (US 2004009302).**

Referring to claim 10:

Nair discloses a system for purchasing items via the internet and donating a portion of the purchase price to charity. Nair does not disclose wherein the item of merchandise is one or more tickets to an event.

However, Baker teaches a similar system for selling goods over the internet and donating a portion of the proceeds to charity. Baker teaches wherein the item of merchandise is one or more tickets to an event (paragraph 53; "Once the user has registered and logged in, system 10 will query the user for general attributes of the tickets the user desires to sell...").

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the system disclosed in Nair to incorporate wherein the item of merchandise is one or more tickets to an event as taught by Baker because this would provide a manner for selling tickets, thus aiding the client by providing a greater variety of goods for purchase.

Referring to claim 11:

Baker teaches wherein said one or more tickets are confirmed to be authentic prior to said communicating information about the item of merchandise (paragraph 53; "Once the user has registered and logged in, system 10 will query the user for general attributes of the tickets the user desires to sell (e.g., the number of tickets, and the section number, row, and face value of the tickets)" and "The system 10 then queries the user for further detailed information describing the tickets, such as the seat numbers of the tickets, and personal comments regarding the tickets.").

Referring to claim 20:

Nair discloses associating, in a database, a plurality of parameters with each item of merchandise for sale, the parameters specific to each item of merchandise, each parameter being set by one of a donor of the item of merchandise, a supplier of the item of merchandise, and a vendor of the item of merchandise (paragraphs 38-39; "Web page 500 also includes link 530 for causing new customer information to be submitted to the server computer 22 through the internet 20 by the user processor 12." and "Field 519 may be used to enter a charity of the user's choice and to specify a percentage (or dollar amount) for donations to that

charity." and where the server which stores the submitted information is interpreted as a database and where the operator of the website is interpreted as a vendor of the item of merchandise and where the purchaser may also be a supplier of an item, as evidenced in paragraphs 4-5);

the parameters comprising: a list of charitable organizations eligible for the receipt of a donation, a purchase price for each item of merchandise, a donation amount for each item of merchandise, a total price for each item of merchandise, and an allocation as a percentage of the donation amount, to one or more charitable organizations on the list, the total price comprising the sum of the purchase price and the donation amount (paragraphs 39 and 54 and Figs. 6, 12, and 14A; "Charity Donation Information" and fields 1316a-1318a show a list of charitable organizations eligible for the receipt of a donation, "Donation" column in Fig. 12 shows the donation amount for each item of merchandise, "Total Amount" in Fig. 12 is the total price for each item of merchandise, comprising the sum of the purchase price and the donation amount, and fields 1308a-1310a show an allocation as a percentage of the donation amount);

receiving from the purchaser an identity of one or more charitable organizations to which a portion of the winning offer price is to be allocated (paragraphs 38-39; "Field 519 may be

used to enter a charity of the user's choice and to specify a percentage (or dollar amount) for donations to that charity."); allocating, by computer, a portion of the winning offer price to said one or more charitable organizations (paragraph 47 and Fig. 12; "...order review web page..."); and communicating, by the computer, to the purchaser an indication that the purchaser's offer was accepted and the list of one or more charitable organizations (paragraphs 39 and 52 and Fig. 6; "Clicking on link 1206b may confirm the check out and a message may be displayed saying "you are checked out" as shown in field 1208b." and "Field 520 can be used to allow the user to allocate donations at a later date.").

Nair discloses a system for purchasing items via the internet and donating a portion of the purchase price to charity. Nair does not disclose receiving offers to purchase the item of merchandise from one or more bidders, each of the offers comprising an offer price; selecting, by a computer in response to the offers and the parameters, one of the offers as a winning offer; and designating the consumer bidder who submitted the winning offer as a purchaser of the item of merchandise.

However, Baker teaches a similar system for selling goods over the internet and donating a portion of the proceeds to charity. Baker teaches

receiving offers to purchase the item of merchandise from one or more bidders, each of the offers comprising an offer price (paragraph 74; "...allows a buyer to enter a bid in the auction...");

selecting, by a computer in response to the offers and the parameters, one of the offers as a winning offer (paragraph 74; "At the auction end date or time, the system 10 will automatically inform the buyer (e.g., by e-mail) whether the bid was accepted. If the bid was accepted, the system 10 will instruct the buyer to return to the Web site and complete the previously delineated multi-step procedure to initiate the ticket purchase transaction."); and

designating the consumer bidder who submitted the winning offer as a purchaser of the item of merchandise (paragraph 74; "At the auction end date or time, the system 10 will automatically inform the buyer (e.g., by e-mail) whether the bid was accepted. If the bid was accepted, the system 10 will instruct the buyer to return to the Web site and complete the previously delineated multi-step procedure to initiate the ticket purchase transaction.").

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the system disclosed in Nair to incorporate receiving offers to purchase the item of merchandise from one or more bidders, each of the offers comprising an offer price; selecting, by a computer in response to the offers and the parameters, one of the offers as a winning offer; and designating the consumer bidder who submitted the winning offer as a purchaser of the item of merchandise as taught by Baker because this would provide a manner for auctioning merchandise, thus aiding the client by providing a manner for the client to determine the price they are willing to pay for the merchandise.

Referring to claim 21:

Nair discloses wherein the information comprises a percentage of the sale proceeds winning offer price that will be donated to said one or more charitable organizations (paragraph 71; "A certain percent of the purchase value of goods or services purchased through a web site in accordance with the present invention may be donated to community programs and/or charities of the customer's choice. The donation amount may be determined based on product value, its profitability, etc., and may be available to the customer at the time of the transaction.").

Referring to claim 22:

Nair discloses wherein the information comprises a fixed dollar amount of the sale proceeds winning offer price that will be donated to said one or more charitable organizations (paragraph 74; "The allocated donation amount may be a fixed amount per item sold...").

Referring to claim 26:

Claim 26 is rejected on the same basis as claim 9.

Referring to claim 30:

Claim 30 is rejected on the same basis as claim 12.

Referring to claim 31:

Claim 31 is rejected on the same basis as claim 14.

Referring to claim 32:

Nair discloses sending, by computer, the portion of the winning offer price to the two or more identified charitable organizations (paragraphs 72-73; "The contributions may be disbursed as per their elections periodically.").

Referring to claim 33:

Nair discloses wherein said purchaser further identifies more than one charitable organization to which said donation amount is to be allocated (paragraph 39 and Fig.6; where Fig. 6 shows that 3 organizations are identified).

Referring to claim 34:

Nair discloses wherein the portion of the winning offer price is allocated to each of said identified charitable organizations in shares (paragraph 39 and Fig. 6; "Fields 515, 516, and 517 show percentages for donating part of a purchase price of goods or services purchased through this web site...").

Referring to claim 35:

Nair discloses receiving from the purchaser a percentage allocation, the percentage allocation indicating the purchaser's preferred allocation of the portion of the winning offer price among each of the said identified charitable organizations (paragraph 39 and Fig. 6; where Fig. 6 shows a percentage allocation and "% Donation" is interpreted to correspond to the allocation of the donated amount).

Referring to claim 36:

Nair discloses sending portions of the winning offer price to said charitable organizations according to the percentage allocation (paragraph 72; "The contributions may be disbursed as per their elections periodically").

6. **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nair (US 20020099654), in view of Burke (US 6112191).**

Referring to claim 13:

Nair discloses a system for purchasing items via the internet and donating a portion of the purchase price to charity. Nair does not disclose wherein the qualification comprises determining that each of the charitable organizations is recognized as a charitable organization by the Internal Revenue Service.

However, Burke teaches a similar system for donating money to charity when consumers make purchases. Burke teaches wherein the qualification comprises determining that each of the charitable organizations is recognized as a charitable organization by the Internal Revenue Service (col. 8, lines 30-37; "Prior to listing in the CCC, the invention qualifies each charity for their tax exempt status, operations, management activities, litigation, and other pertinent legal and financial information").

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the system disclosed in Nair to incorporate determining that each of the charitable organizations is recognized as a charitable organization by the Internal Revenue Service as taught by Burke because this would provide a manner for ensuring that the charities being donated to are legitimate, thus aiding the client by ensuring the client is not being scammed.

7. **Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nair (US 20020099654), in view of Official Notice.**

Referring to claim 56:

Nair discloses a system for purchasing items via the internet and donating a portion of the purchase price to charity. Nair does not disclose wherein the item of merchandise is offered in response to the allocation as a percentage of the donation amount to one or more charitable organizations.

However, it is old and well known to receive donations which are donated for the purpose of being sold so that the proceeds may be donated to charity. For example, schools host an auction night and request that local businesses donate items such as a spa package or a dinner for two to the auction, said items are then auctioned and the proceeds go to support the school. The businesses are donating the items because the proceeds will be donated to a charity.

It would have been obvious for a person of ordinary skill in the art (PHOSITA) at the time of invention to modify the system disclosed in Nair to incorporate wherein the item of merchandise is offered in response to the allocation as a percentage of the donation amount to one or more charitable

organizations as taught by Official Notice because this would provide the donor an avenue for receiving a tax deduction.

Response to Arguments

Applicant's arguments with respect to claims 1, 3, 9-16, 18-22, 26, 30-36, and 54-56 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARRIE A. STRODER whose telephone number is (571)270-7119. The examiner can normally be reached on Monday - Thursday 8:00 a.m. - 5:00 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan Mooneyham can be reached on (571)272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/CARRIE A. STRODER/
Examiner, Art Unit 3689

/Dennis Ruhl/
Primary Examiner, Art Unit 3689